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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/330,629	06/11/1999	CLAUDIA CHERNEY STEWART	JG-RP-4796	9658

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EXAMINER

HUI, SAN MING R

ART UNIT

PAPER NUMBER

1617

DATE MAILED: 02/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/330,629

Applicant(s)

STEWART, CLAUDIA CHERNEY

Examiner

San-ming Hui

Art Unit

1617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 January 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.


NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.Claim(s) objected to: None.Claim(s) rejected: 1-14.Claim(s) withdrawn from consideration: 15-40.

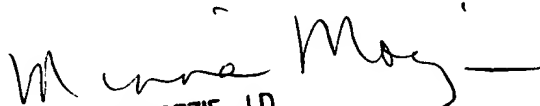
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


MINNA MOEZIE, J.D.
SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 1600

Part of Paper No. 15

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments filed January 10, 2002 regarding the prior art teaching the utilization of the compounds herein in cells that are already infected instead of cells that have not been infected have been considered but not found persuasive because the instant compounds are known to be useful in reducing the viral titer in cells. Applying the very same compounds topically would have been reasonably expected to be useful in prophylaxis of the HIV viral infection since the antiviral compounds herein, once topically applied to a potential infection site, would be expected to kill or inactivate any virus which may later contact the area thus limiting its ability to infect the host tissue. Furthermore, the steps of prophylaxis HIV infection discussed by applicant in the response, e.g., a) treating the cells with the compounds herein; followed by b) washing or diluting out the compounds 1,000-fold and then c) exposing the cells to HIV viruses discussed in the applicant's remarks are not recited in the instant claims. Moreover, please note that the cited prior art teaches the same method steps of claim 1. Dori teaches employing the same compounds herein topically to the same host (a host that is not infected by HIV) at the same dose. Therefore HIV prophylactic effects are reasonably expected to be produced by the method in Dori.


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